

Remarks

The Office Action dated November 13, 2006 has been reviewed, and the aforementioned amendments and the following remarks are made in response thereto. In view of the following remarks, Applicants respectfully request reconsideration of this application and timely allowance of the pending claims. Upon entry of the instant amendment, claims 23, 25, 26, 29, 33-37, 39-42, 45 and 46 are pending. Claims 34 and 39 are amended. Written support for the claim amendments is found throughout the specification and in the original claims, thus Applicants submit that no prohibited new matter has been added.

Summary of the Non-Final Office Action

1. Claim 34 was rejected as being indefinite.
2. Claim 39 was rejected under 35 U.S.C. 102(b) as being anticipated by Sugasawa-T *et al.* (Agents Actions (1992) 37:232-237).
3. Claims 23, 25, 26, 29, 33, 35-37, 40-42, 45 and 46 were allowed.

Rejections Under 35 U.S.C. 112 (second paragraph)

Claim 34 was rejected under 35 U.S.C. 112 (second paragraph) as being indefinite. In particular, the Examiner purported that the phrase "said nucleic acid sequence" in claim 34 lacked antecedent basis in the claim and parent claims.

Without acquiescing to the merits of the Examiner's rejection, and solely to expedite the prosecution of the pending application, Applicants have amended claim 34 to recite "nucleotide" sequence. As amended the phrase "nucleotide sequence" finds proper basis in claim 33 from which claim 34 depends. Accordingly, Applicants respectfully request that the rejection of claim 34 under 35 U.S.C. 112 (second paragraph) be reconsidered and withdrawn.

Rejections Under 35 U.S.C. 102

Claim 39 was rejected under 35 U.S.C. 102(b) as being anticipated by Sugasawa-T *et al.* (Agents Actions (1992) 37:232-237) ("Sugasawa"). Specifically, the Examiner alleged that Sugasawa disclosed a method for assaying a substance, *e.g.* BRL-35135, for agonist or antagonist activity towards the isolated polypeptide of SEQ ID NO: 1 and 14 comprising placing the substance in contact with tissue membranes comprising the polypeptide, *e.g.* eosinophils, and measuring the effect of the substance on eosinophil chemotaxis.

Without acquiescing to the merits of the Examiner's rejection, and solely to expedite prosecution of the instant application, Applicants have amended claim 39 such that the recitation

“tissue membrane proteins comprising said polypeptide” has been removed. As such, the method requires that the substance be placed in contact with a transformed host cell expressing a polypeptide comprising the amino acid sequence of SEQ ID NO: 1 or 14. Given that Sugasawa does not disclose that the substance is placed in contact with a transformed host cell expressing a polypeptide comprising the amino acid sequence of SEQ ID NO: 1 or 14, it does not disclose each and every element of the claimed invention. Accordingly, Applicants respectfully request that the rejection of claim 39 under 35 U.S.C. 102(b) be reconsidered and withdrawn.

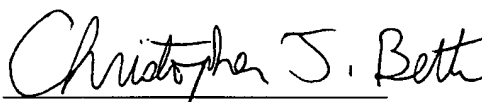
Conclusion

The foregoing amendments and remarks are being made to place the application in condition for allowance. Applicants respectfully request entry of the amendments, reconsideration and the timely allowance of the pending claims. A favorable action is awaited. Should the Examiner find that an interview would be helpful to further prosecution of this application, they are invited to telephone the undersigned at their convenience.

Except for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

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Respectfully submitted,
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